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LIMITATIONS OF THE TAXING POWER, INCLUDING LIMITATIONS UPON PUBLIC INDEBTEDNESS. By JAMES M. GRAY. San Francisco: Bancroft-Whitney Co. 1906. pp. lx, 1316.

This treatise, large as it is, does not purport to cover the entire field of taxation. It is limited to the constitutional law, state and national, governing taxation and public debt—and not even all of that part of the law is covered. Roughly it may be said that the administrative aspects of the subject, the law of assessment, equalization, apportionment, etc., are for the most part treated incidentally. Separate chapters are not, as a rule, given to these subjects, though they are discussed to some extent under chapters on due process of law, the collection of taxes and enforcement of tax laws, etc. It is with subjects such as equality in taxation, the scope of the taxing power, situs, the purposes of taxation, taxing districts, double taxation, and retrospective laws, that the book has to do for the most part.

The book commends itself in the main as a solid contribution to the literature of the subject. It is written in a lucid style and, as it would seem, with a good sense of the relative importance of things. This appears not only in the treatment of the subject-matter itself, but in the use of quotations from opinions and extracts from constitutions. The directness of style is unusual for a text book. It is not written after the perfunctory manner of the weary compiler—which is all too common nowadays in law treatises. The book is, however, in the opinion of the reviewer, disfigured somewhat by its opening pages. It opens with a long, philosophical discussion of equality in taxation which is out of keeping with the business-like directness of the rest of the book.

Though the sub-title of the book is "Limitations upon Public Indebtedness," only one of the twenty-nine chapters is devoted to this subject. Thus the work is almost entirely one on taxation. In his preface the author makes something of an apology for quoting liberally from the state constitutions, but, the book being what he has made it, distinctly a treatise upon the constitutional phases of the subject, this, it seems, is a distinct gain. Statements, however careful, as to the construction of particular constitutional provisions are seldom entirely satisfactory. So important are the comparatively minute variations of word and phrase from constitution to constitution that the lawyer, if not provided with the text itself, would in most cases turn direct from the comments of the author to the constitution in order to have the whole case before him.

Fair examples of the treatment throughout are found in the discussion of direct taxes and income taxes, taxation in its relation to interstate commerce, franchise taxation, the power of the state to limit its taxing power by contract and the possible limits of inheritance taxes. The opinion is expressed that not only do direct taxes include taxes on land and the income therefrom, taxes on personal property and the income derived from it, but as well taxes "on persons with respect to income derived from personal employments." Admitting that there is no express adjudication on this point it is said that "the statements in the opinions in *Pollock v. Farmer's Loan and Trust Co.*, that such taxes were

considered direct taxes in the colonies, lead to the opinion that taxes on such profits must be considered direct taxes, despite the distinction made as to *Pacific Ins. Co. v. Soule* and *Springer v. U. S.*" With respect to the power of a state to limit its taxing power by contract, the author, while of course recognizing that this may be done, expresses the opinion that there must be some limit to it. This and the opinion that there is a limit beyond which inheritance taxes amount to confiscation are fairly illustrative of his conservative attitude.

It is unfortunate that the case of *Delaware etc. RR. Co. v. Pennsylvania* was not decided at the time the book was written. In the text we find the following statement: "Possibly the state where the owner of tangible property resides has jurisdiction by virtue of its power over his person to tax him in respect of his tangible personalty permanently situated out of the state." This the case above referred to now prohibits, and had the author been able to take advantage of the decision it might have influenced his treatment in more than one respect, of such revolutionary importance is this rule. The discussion of the "faculty" theory as opposed to the "benefit" theory of taxation, found in the earlier part of the volume, will be of interest to those economists who look for the time when events will move into line with modern economic doctrine.

SPECIAL VERDICTS. By GEORGE B. CLEMENTSON. St. Paul: West Publishing Co. 1905. pp. lxi, 350.

This work is more fully and more accurately described in the title page as "A Manual Relating to Special Verdicts and Special Findings by Juries Based on the Decisions of All the States." It has been prepared by a practicing lawyer for practicing lawyers, with the purpose of presenting in the form of a systematic treatise the law upon these topics, which, heretofore, must have been sought for in general works on trial practice, in digests, statutes, etc., and the author has, on the whole, accomplished his purpose so well that the volume may be commended both to the class for which it was primarily intended and also to students.

A short account is first given of the origin and history of special verdicts and findings. This is followed by a chapter relating to what is designated as the "New England Practice" of questioning the jury as to the grounds of the verdict. Chapters three to nine inclusive treat of special findings as distinguished from special verdicts, and, as a large majority of the states have statutes relating to the subject, chapter three very properly gives a synopsis of these statutes, shows their essential similarity, the uniformity in the decisions interpreting the different statutes, the object and effect of the statutes, and their constitutionality. The remaining chapters of this portion of the volume treat the sub-topics in the order in which they would naturally arise in the progress of a cause, from the time of presenting a request for the submission of interrogatories, to the decision upon appeal of questions relating to special findings. Chapters ten to fifteen are devoted to the subject of special verdicts, the general scheme of treatment being the same as that adopted in the earlier portion of the work with reference to special findings.

It is evident that the author has given much time and labor to the